

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Latasha Townsend,

Plaintiff,

vs.

Wal-Mart Associates, Inc., and William Odom,

Defendants.

Civil Action No.: 4:18-cv-02620-RBH

ORDER OF REMAND

This matter is before the Court upon the parties Consent Motion to Remand, filed October 2, 2018, pursuant to 28 U.S.C. § 1447(c). This Court remands the above-captioned matter for the reasons set forth below.

On September 25, 2018, Defendant Wal-Mart Stores, Inc. removed this action pursuant to 28 U.S.C. § 1332, which permits this Court jurisdiction if the parties have complete diversity of citizenship and the amount in controversy exceeds \$75,000.00, exclusive of interests and costs. Under 28 U.S.C. § 1332, the Court tests the amount in controversy at the time of removal. When Plaintiff claims an unspecified amount of damages, the amount in controversy is satisfied for the purposes of removal unless it appears to a legal certainty that plaintiff cannot recover damages in excess of \$75,000.00. Wright, Miller & Cooper, *Federal Practice and Procedure* §3725 (1985 & Supp. 1998). Limitations on damages after removal do not affect jurisdiction; however, clarifications of the amount sought at the time of removal may result in remand. *See St. Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283, 292 (1938) (post-removal amendment does not affect jurisdiction); *Cole v. Great Atlantic & Pacific Tea Co.*, 728 F.Supp. 1305 (E.D. Ky. 1990) (ambiguous demands may be subject to post-removal clarification); Wright & Miller § 3702 (Supp. 1998).

As set forth in the parties' Consent Motion to Remand, Plaintiff clarified that the alleged damages resulting from the causes of action contained in her Complaint will not exceed \$75,000.00 and, as proof thereof, executed a Stipulation Limiting Damages. For this reason, this Court orders the above-captioned matter be remanded from the United States District Court, District of South Carolina, Florence Division to the Court of Common Pleas for the Fourth Judicial Circuit, Marlboro County, South Carolina.

No costs shall be imposed as removal was not improper given the facts then known to Defendant.

IT IS SO ORDERED.

October 9, 2018
Florence, South Carolina

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

WE SO CONSENT:

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October 2, 2018